IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 4942 of 2005
Date of Decision: 13.9.2006

Smt. Santosh Kumar ...Petitioner

Versus

Punjabi University, Patiala and another ....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA.

Present: Shri P.S. Dhaliwal, Advocate, for the petitioner.

Shri Vikrant Sharma, Advocate, for the respondents.

JUDGMENT

The prayer in the present writ petition is for quashing of Annexure P.5 dated 14.3.2005, whereby the petitioner was found not eligible to appear in M.A. (Economics) Part II Examination, to be held in April, 2005.

It is the case of the petitioner that she had appeared in MA (Economics) Part-I Examination in April, 1989 and she qualified the said examination in terms of the result declared on 11.8.1989. Subsequently, she applied to appear as a private candidate in MA (Economics) Part I Examination, commencing in April, 2004 by deposit of the necessary fee on 23.10.2003. On 24.3.2004, vide Annexure P.3, the candidature of the petitioner was rejected on the ground that the petitioner has passed MA (Economics) Part I Examination in the year 1989. Since her candidature was rejected, the petitioner sought to appear in MA (Economics) Part II, Examination in April, 2004 vide application Annexure P.4. However, the

said request was also rejected after almost one year on 14.3.2005 on the ground that she has passed MA (Economics) Part I Examination in the year 1989.

In reply, on behalf of the University, it has been pointed out that the first communication rejecting her candidature for MA (Economics) Part-I Examination, was on account of mistake, which was later on rectified. It has been stated that the University issued Roll Number 37068 permitting the petitioner to appear in MA (Economics) Part-I Examination, on 23.4.2004, on the address given by the petitioner. It has been further pointed out that in terms of the Regulations, the petitioner cannot be permitted to appear in MA (Economics) Part II Examination, after such lapse of time.

Even though, the learned counsel for the petitioner has vehemently argued that there is no time limit for appearing in MA (Economics) Part II Examination, but without going into that question, another argument raised by the learned counsel for the petitioner merits consideration. It has been pointed out that the petitioner has earlier sought to appear in MA (Economics) Part I Examination but her candidature was rejected. When she sought to appear in MA (Economics) Part II Examination, again her candidature was rejected. In both the eventualities, her candidature was rejected, so as to deny an opportunity to the petitioner to take out any of the examinations. The University cannot be permitted to approbate and reprobate its stand in respect of eligibility of the petitioner to appear in the examinations.

The stand of the University that the Roll Number 37068 was issued to the petitioner on 23.4.2004 seems to be incorrect, in as much as 37068 is the identity number in communication dated 24.3.2004, whereby

the candidature of the petitioner was rejected. Apart from the averments made in the written statement that Roll Number was despatched, the respondents have not placed on record any document to show that Roll Number 37068 was issued to the petitioner. The only averment made in the written statement is that such Roll Number was despatched on 23.4.2004. The acknowledgment in respect of receipt of such Roll Number has not been appended. In fact, that was not the stand communicated to the petitioner on 14.3.2005 when the candidature of the petitioner for MA (Economics) Part II Examination was rejected.

In view of the above, I am of the opinion that the University cannot be permitted to change its stand. The petitioner has already passed MA (Economics) Part-I Examination, in the year 1989. The petitioner cannot be deprived to appear in MA (Economics) Part II Examination in view of the communication Annexure P.3, whereby her candidature for MA (Economics) Part-I Examination was rejected.

Accordingly, the writ petition is allowed and the respondents are directed to permit the petitioner to appear in next MA (Economics) Part-II Examination, in accordance with law.

13.9.2006 **(HEMANT GUPTA)**
ds **JUDGE**